

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today
(1) was not written for publication in a law journal and
(2) is not binding precedent of the Board.

Paper No. 28

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

MARTIAL LACROIX,
Junior Party,¹

v.

MARTIAL LACROIX,
Junior Party,²

v.

FRANCESCO BELLINI, MARTIAL LACROIX
AND GERVAIS DIONNE,
Junior Party,³

¹Application 08/432,520, filed May 1, 1995. Accorded the benefit of U.S. Application Nos. 07/148,821, filed January 27, 1988; 07/185,518, filed April 22, 1988; 07/281,205, filed December 8, 1988; 07/549,964, filed July 9, 1990, now Patent No. 5,241,047, issued August 31, 1993; 08/077,085, filed June 16, 1993. Assignor to BioChem Pharma Inc.

²Patent No. 5,241,047, granted August 31, 1993, based on Application 07/549,964, filed July 9, 1990. Accorded the benefit of U.S. Application Nos. 07/148,821, filed January 27, 1988; 07/185,518, filed April 22, 1988; 07/281,205, filed December 8, 1988. Assignor to BioChem Pharma Inc.

³Application 07/148,821, filed January 27, 1988. Assignor to BioChem Pharma Inc.

Interference No. 104,054

v.

FRANCESCO BELLINI, MARTIAL LACROIX
AND GERVAIS DIONNE,
Junior Party,⁴

v.

FRANCESCO BELLINI, MARTIAL LACROIX
AND GERVAIS DIONNE,
Junior Party,⁵

v.

JERZY TROJNAR, ULLA RUDEN
AND BRITTA WAHREN,
Senior Party.⁶

Patent Interference No. 104,054

Before CALVERT, CAROFF, and METZ, Administrative Patent Judges.

CAROFF, Administrative Patent Judge.

⁴Application 07/185,518, filed April 22, 1988. Accorded benefit of U.S. Application No. 07/148,821, filed January 27, 1988. Assignor to BioChem Pharma Inc.

⁵Application 07/281,205, filed December 8, 1988. Accorded benefit of U.S. Application Nos. 07/148,821, filed January 27, 1988; and 07/185,518, filed April 22, 1988. Assignor to Biochem Pharma Inc.

⁶Application 07/473,994, filed June 22, 1990. Accorded benefit of PCT Application No. SE88/00570, filed October 27, 1988; and Sweden 8704185-1 filed October 28, 1987. Assignor to Ferring AB of Sweden.

Interference No. 104,054

JUDGMENT

All of the junior parties, Lacroix-Bellini et al., have filed a request for entry of adverse judgment (Paper No. 21) contingent upon the grant of their preliminary motions to designate certain claims as not corresponding to the count. Those unopposed preliminary motions have been granted in a concurrent Decision on Motions (Paper No. 26). Accordingly, judgment is hereby entered pursuant to 37 CFR § 1.662(a) as follows:

Judgment as to the subject matter of the sole count in issue is hereby awarded to Trojnar et al., the senior party. Therefore, on this record, Trojnar et al. are entitled to their claims 29-52 corresponding to the count. On the other hand, the junior parties are not entitled to their claims corresponding to the count as enumerated below:

Lacroix ('520)	: Claims 28-29, 31-34, 36 and 42-44
Lacroix ('964)	: Claims 1-2 and 7-9
Bellini et al. ('821)	: Claims 11-14 and 16-18
Bellini et al. ('518)	: Claims 27-28 and 30-33
Bellini et al. ('205)	: Claims 15-20

Interference No. 104,054

As to the Lacroix-Bellini et al. claims designated as not corresponding to the count, upon resumption of ex parte prosecution Lacroix-Bellini et al. should request that the examiner consider whether any of those claims conflict with each other under the "double patenting" doctrine.

The preliminary statements filed in this interference remain sealed on the record and are being returned in accordance with 37 CFR § 1.631(c).

The parties are reminded that any settlement agreement between them must be filed prior to termination of the interference. In this regard, see 37 CFR § 1.666(a).

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Administrative Patent Judge)	
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Administrative Patent Judge)	INTERFERENCES
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Administrative Patent Judge)	

Interference No. 104,054

Enclosures:

Unopened preliminary statements

Interference No. 104,054

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